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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/330,793	06/11/1999	FRANKLIN E. BOYER	UV-72	9836

7590 01/13/2005

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NEW YORK, NY 100201104

EXAMINER
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BROWN, RUEBEN M

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 01/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/330,793

Applicant(s)

BOYER ET AL.

Examiner

Reuben M. Brown

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on 12 July 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 151-154, 156-159, 161-164 and 202-204 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 151-154, 156-159, 161-164 and 202-204 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 February 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☒ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments, filed 7/12/2004, with respect to the rejection(s) of claim(s) 151, 156, 161 & 202, have been fully considered, but is moot in view of the new grounds of rejection. Applicant argues that Ellis does not teach displaying the program listings separately. Examiner respectfully disagrees and points out that Fig. 7-Fig.8B & Fig. 11A-12A clearly shows each program being separately displayed within an overlay region, as recited in the claims.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 151-154, 156-159, 161-164 & 202-205 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis, (U.S. Pat # 5,986,650) in view of Bedard, (U.S. Pat # 5,801,747).

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Considering claims 151, 156 & 161, the interactive EPG system or method for aiding a user in identifying programs for viewing, comprising user equipment wherein an EPG is at least partially implemented is met by Ellis, (Fig 5A & Fig. 7). Ellis, col. 9, lines 1-10 & col. 12, lines 28-52, meets the claimed feature of the TV equipment displaying a current program, while also displaying the EPG.

The additionally claimed feature of the TV equipment allowing the user to sequentially browse program listings for available programming by selectively displaying a display region reads on Ellis. The reference teaches that while in FLIP or BROWSE mode, that the user is enabled to sequence through a list of TV programs, col. 9, lines 31-35; col. 9, lines 61-65 & col. 12, lines 44-50.

The amended claimed feature of the display region being an overlay, and separately displaying each program listing is met by the discussion of Ellis, of the graphic overlay region 111, see col. 12, lines 37-60. Ellis goes on to teach that each program listing, i.e., each particular program s separately displayed on the screen, see Fig. 7-Fig. 8B; Fig. 11A-12A & col. 12, lines 44-67, which meets the claimed subject matter

Regarding the further claimed feature of the TV equipment configured to limit which program listings are displayed in the display region based on various program attributes of TV programs that have been viewed by the user, Ellis discloses that while in FLIP mode, the viewer

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may look at the EPG according to favorite channel lists, col. 10, lines 35-39. Ellis also teaches that the list of programs shown to the user while in BROWSE/FLIP mode may be limited to a particular category of interest, such as Sport, for instance (col. 17, lines 8-20). However, this favorite channel or Category list does not explicitly require that the channels/programs be based on program attributes of programs that have been viewed by the customer. Nevertheless, Bedard teaches the well known technology of monitoring the programs/channels watched by customers and providing a listing of programs/channels likely to be of interest to the customer based upon a matching of the attributes of the viewed programs and the customer's viewer profile, Abstract; col. 2, lines 5-34; col. 3, lines 32-61 & col. 4, lines 26-38. Bedard teaches that the subscriber may surf through the list of programs generated by monitoring the instant subscriber's viewing behavior, col. 7, lines 8-26.

Bedard furthermore discloses that the subscriber may view these favorite channels as an overlay, and that they may be surfed through individually, as recited in the claims, see col. 7, lines 28-62 & Fig. 5. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Ellis with the technique of providing listing of programs based on the attributes of programs viewed, for the known improvement of more accurately estimating which programs the customer would have interest in, as taught by Bedard, Abstract & col. 2, lines 5-35.

The additionally claimed feature of allowing the user to adjust the relative importance of the various program attributes that are used to limit the displayed program listings reads on the

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discussion in Bedard that parents may adjust the amount of time that for instance children view particular categories of programming, see col. 8, lines 1-15.

Considering claims 152, 157, 162 & 203, the claimed subject reads on the disclosure of Bedard, col. 3, lines 32-67; col. 4, lines 26-60 & col. 6, lines 22-50.

Considering claims 153, 158, 163 & 204, see Herz, col. 45, lines 43-50.

Considering claims 154, 159, 164 & 205, the claimed neural network reads on system of Bedard, generating a viewer profile array in software, col. 3, lines 55-67 & col. 4, lines 65.

Considering claim 202, the claimed machine-readable media for use in a system in which an interactive TV EPG is at least partially implemented wherein the media is encoded with machine-readable instructions for performing method steps that correspond with subject matter mentioned above in the rejection of claims 151, 156 & 161, are likewise rejected. Both Ellis (Fig. 1) & Bedard (col. 3, lines 55-67) are directed to a computer driven system that discloses the use of machine-readable media to perform the features discussed above in the claims.

*Conclusion*

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**

(703) 872-9306, (for formal communications intended for entry)

**Or:**

(703) 746-6861 (for informal or draft communications, please label  
"PROPOSED" or "DRAFT")

*Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,  
Arlington, VA., Sixth Floor (Receptionist).*

Any inquiry concerning this communication or earlier communications from the  
examiner should be directed to Reuben M. Brown whose telephone number is (703) 305-2399.  
The examiner can normally be reached on M-F (8:30-6:00), First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's  
supervisor, Christopher Grant can be reached on (703) 730-4755. The fax phone numbers for the  
organization where this application or proceeding is assigned is (703) 872-9306 for regular  
communications and After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding  
should be directed to the receptionist whose telephone number is (703) 305-4700.

Reuben M. Brown

  
HAT TRAN  
PRIMARY EXAMINER